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Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

Report submitted by the Special Rapporteur,
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Addendum

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I. SUMMARY OF GENERAL OBSERVATIONS AND INFORMATION RECEIVED FROM GOVERNMENTS AND OTHER SOURCES

A. Governments

1. The Government of Azerbaijan noted that regulations concerning the transboundary movement and dumping of toxic products and wastes were reproduced in the relevant legislative acts of the Republic of Azerbaijan, namely the Health and Disease Control Act, the Public Radiation Safety Act, the Environmental Safety Act, and the Environmental Protection Act. Reference was also made to 21 relevant laws and decisions of the Milli Majlis (Parliament) which regulate procedures for the transboundary movement and dumping of toxic and dangerous products and wastes.

2. The Government of Cyprus indicated that no persons have been killed or injured as a result of the dumping of toxic and dangerous products and waste in Cyprus.

3. The Government of the Federal Republic of Yugoslavia transmitted a document on the effects of dumping of toxic and dangerous products and waste on human rights in the Federal Republic of Yugoslavia. The paper contains a section on "bombardment and war consequences as a practice of the dumping of toxic and dangerous products and waste". It is indicated that the quantities and forms/categories of waste due to war-related operations in Yugoslavia increased enormously. Pollution of the Tisza and Danube rivers has had serious long-term effects on the aquatic, environmental and health systems as well as on human rights. In a section entitled "Non-environmentally friendly humanitarian aid to the people of the FR of Yugoslavia", it is stated that humanitarian aid could have expired dates, i.e. hazardous or other wastes (expired medicines, hygienic chemicals and goods, pesticides, disinfectants, as well as consumer/food products like chocolates, milk, wheat, etc.).

4. The Government of Guatemala sent a study entitled "Chemical Accidents in Latin America" prepared by the Director of the Environment Control Programme of the Centro de Ecología y Desarrollo (Mexico, 1992). The study shows that chemical substances can be dangerous in many ways: they can be toxic in the short term, explosive, inflammable, corrosive, radioactive or reactive. According to the study, the following are affected by damage caused by chemical accidents: employees; communities in the vicinity of the enterprise; other generations through the exposure of a large number of persons to radioactive substances; other countries.

5. Another study referred to by the Government of Guatemala shows that chemicals are harmful to humans and to the environment especially in the case of incorrect use of pest-control products. The causes of the incorrect use, transport and distribution of pest-control products are listed as follows: failure to use appropriate protective equipment; overdosing of products; inappropriate mixtures; handling by children and pregnant women; failure to respect the time period after fumigation; not preventing the pollution of areas and populations outside the crop field; incorrect disposal of containers; inappropriate use of pest-control products in domestic environments. The Government of Guatemala also referred to ongoing projects and listed the existing national legislation concerning pest-control products.

6. The Defensoría del Pueblo de Colombia (Office of the Ombudsman) reported that the Office is studying the possibility of experimentation with the fungus *Fusarium oxysporum* in Colombia and the future application of that fungus as a biological agent for eradicating illegal crops. This body is gathering information on the serious risks to life, human health and the environment that could result from experimentation with the *F. Erythroxylum* variety of the *Fusarium oxysporum* fungus in the open in the Colombian Amazon, one of the richest habitats in terms of biodiversity in the world. The Ombudsman's Office stressed that it is of particular importance to ascertain whether the method of "biological control" proposed for the eradication of illegal crops is consistent with the policies, principles and agreements of the United Nations.

B. Non-governmental organizations

7. The Europe-Third World Centre transmitted a document on the work of the subcommission related to transnational corporations.

8. The Basel Action Network (BAN) sent a copy of a briefing paper warning the Persistent Organic Pollutants (POPs) treaty negotiators in Johannesburg that the Basel Convention alone will not be able to provide adequate environmental protections with respect to the destruction of wastes and stockpiles of POPs. According to this paper, the Basel Convention is poorly equipped to deal with the destruction of POPs. It is vital that the treaty being negotiated take responsibility for truly environmentally sound destruction of POPs.

II. NEW CASES SUBMITTED TO THE ATTENTION OF THE SPECIAL RAPPORTEUR

Case 2001/63 - Australia/South Africa

9. According to a communication of 14 September 2000 from the Basel Action Network (BAN), Australia exported to South Africa 60 tonnes of toxic waste called "paragoethite", which originated from the Australian mining and smelting firm Pasminco and which contained high levels of lead and arsenic. It was sent to the South African firm Mintek where it was used for recycling research. The residues were to be returned to Australia. The South African Government's authorization of such import was allegedly in contravention of the Basel Convention (decision III/1 on the amendment to the Convention adopted in 1995). According to the report, the fate of the wastes, the degree of exposure of African workers and the contamination left on South African soil remain unknown. Details of the harmful effects described in the report included the following: arsenic damages many tissues including nerves, stomach and intestines and skin. Breathing inorganic arsenic increases the risk of lung cancer and ingestion increases the risk of skin cancer and tumours of the bladder, kidney, liver and lungs. Lead can affect almost every organ and system in the human body. Exposure to lead is more dangerous for young and unborn children.

10. In its reply of 30 October 2000, the Government of Australia stated that it had issued an export permit, under the Basel Convention, for 60 tonnes of hazardous waste to be sent to a minerals research institute in South Africa for experimental testing. Prior to the issuance, the Government referred the permit application to the experts of the Hazardous Waste Technical Group of Australia, which agreed that the export complied with the standards of the Australian

Hazardous Waste Act as well as the Basel Convention. The Group also found that the research institute in South Africa had the technical capacity to handle the waste in an environmentally sound manner. The Government stressed that it also considered the BAN Amendment to the Basel Convention, although it is not in force and has not been ratified by Australia or South Africa. Particular attention was therefore given to the need to demonstrate the capacity of the South African facility to manage the waste in an environmentally sound manner. It was also indicated that the testing of the exported waste would contribute to the development of new technologies for recycling waste within Australia. After the testing is completed, all remaining solid residue is to be returned to Australia.

Case 2001/64 - Canada/Honduras

11. On 9 August 2000, the Special Rapporteur received a report from the International Federation of Rural Adult Catholic Movements (FIMARC), alleging that the Ampac mine located in El Mochito, Honduras, was polluting the Yojoa lake. The Ampac mine is a branch of Breakwater, a Canadian transnational company based in Toronto. In 1990, a scientific analysis, jointly carried out by the Control and Study Centre of Tegucigalpa (Honduras) and the Ecotoxicological Department of the Environmental Institute and the *Ecole polytechnique* of Lausanne (Switzerland), showed the existence of poly-metal contamination (copper, lead, zinc and cadmium) in the sediments of Yojoa lake. Allegedly, the contamination levels were extremely high and could only be due to industrial activities.

12. According to the report, no action was taken to stop contamination of the lake since the publication of the 1990 analysis, even though the risks to the health of the population increased each year. The report stated that it was urgent to put an end to the dumping of heavy metals in the lake and to secure the effective decontamination and purification of the water thrown out by the Ampac mine in El Mochito. Other human rights violations related to working conditions at the mine were also alleged (i.e. lack of safety devices to prevent accidents; lack of prevention of occupational diseases such as chronic pulmonary bronchitis; absence of effective medical care).

Case 2001/65 - Germany/export of hazardous pesticides to the Philippines

13. According to a report received by the Special Rapporteur on 12 April 2000, 150 families and the environment in Davao del Sur, Mindanao, Philippines, have suffered harm due to the use of pesticides by GADECO (Guihing Development Corporation), a neighbouring Filipino banana plantation in place since 1981. The company uses chemicals such as Furadan and Nemacur, both labelled as "extremely hazardous", as well as Baycor, Formalin, Gramoxone, and Decis. Nemacur and Baycor are produced by the German company Bayer. Importation of these chemicals is legal according to Philippines law.

14. The spraying of pesticides has caused illness in children and adults: dizziness, vomiting, skin diseases, body aches, anaemia, thyroid cancer, goitre and asthma. Some adults have been diagnosed with terminal diseases such as cancer. Infants are often born with sicknesses and abnormalities, such as cleft palate. The banana plantation refused to pay for the hospital bills of those affected. Labourers working in the plantations come into direct contact with the chemicals, wearing little or no protective clothing at all. One worker lost two toes and badly infected his foot as a result of walking through canals of thigh-deep chemical-laced waters.

Another died of cancer of the foot. Two workers who used Gramoxone to spray bananas were hospitalized, and one of them died. Workers exposed to other pesticides such as Baycor, Decis and Formalin also complain of serious side effects. Allegedly, the environment and livelihood of the community were also affected: coconut trees no longer bear fruit; increasing death rate of livestock after each aerial spraying; the underground water supply is affected by ground-spraying, and the fish supply has diminished due to the river and sea pollution. The report indicated that despite its promises, the local authorities in Kamukhaan undertook no investigation of the current situation. Thus, no official report could be produced in this connection.

III. SUMMARY OF CASES CONTAINED IN THE PREVIOUS REPORTS

Case 2000/57 - Taiwan (Province of China)/Cambodia

15. Reportedly, 3,000 tonnes of toxic waste was dumped near Sihanoukville, Cambodia on 30 November 1998 by Formosa Plastics, a Taiwanese petrochemical firm. The deaths of two local residents and five cases of dizziness were allegedly connected to the dumping of the toxic waste. Nearly 50,000 residents had fled their homes for fear of health effects from the waste. Another two persons were arrested for protesting against the dumping of the toxic waste, but they have since been released and charges against them dropped. The waste was repacked and transported out of the country on 2 April 1999 under an agreement reached between Formosa Plastics Corporation and the Commission for Negotiation of Cambodia. Formosa Plastics has agreed to compensate any Cambodian resident if medical diagnosis confirmed their claim. According to the Government of Cambodia, there was no evidence of harm to the environment or any evidence to prove that the deaths and cases of dizziness were linked to the dumping of toxic waste. At the WHO's request, a team of investigators from Japan carried out a health assessment of the port workers and soldiers who cleaned the toxic waste site, but could not determine the cause of their health effects. The Special Rapporteur has recommended that the Government of Cambodia continue to monitor the health condition of residents, and inform her of any legal action taken against the company on the basis of the agreement (E/CN.4/2000/50, paras. 61-71).

Case 2000/58 - United States/Paraguay

16. According to sources, cotton seed contaminated with toxic products was dumped in Rincon, 120 km from Asunción, Paraguay by the Delta & Pine Paraguay, a local subsidiary of the United States company Delta & Pine Land, in November 1998. The Government of Paraguay investigated the situation following complaints by residents and journalists on the possible health effects of the waste. The Environmental Protection Directorate found serious faults in the handling and final disposal of the seed. The findings of the Directorate (including analysis of samples) will be used to initiate an administrative inquiry. In the meantime, the company has been urged to cease disposal of such seeds, and to transfer the current waste materials to a safe place. It was also recommended that the local school refrain from using the well water, and that Delta Pine should be responsible for providing the school's water supply. The company was requested to bear expenses for health checks on the local inhabitants (see annex) (E/CN.4/2000/50, paras. 89-90).

Case 2000/59 - United States of America/Panama

17. The Government of Panama alleged that the United States of America did not respect the terms of the treaty of 7 September 1977 on the return of the Panama Canal. The United States army failed to clear the Canal Zone of military wastes such as mines, toxic gas and arms (residues) which could cause health problems for the local population. According to the source, research confirmed that some 7,000 of the 17,000 hectares occupied by the military were identified as high-risk areas. Live munitions on the shores of the Canal caused the death of 12 people in the last 18 years.

18. The United States Government replied that it considered unexploded ordnance, rather than toxic waste to be the main issue. A 1977 Department of Defense study found that the only chemical-related munitions fired on the ranges in the Canal Zone contained smoke-producing agents, such as tear gas, and that these chemicals degraded quickly and did not pose a significant threat to the environment. The United States also replied that there were never any radiation leaks from projectiles containing depleted uranium that were brought to Panama in 1993, and that the depleted uranium was never directly exposed to the environment. The Panama Canal Commission had not received any formal complaints of toxic waste in or around the Canal Zone. The Government of the United States considered that it had gone to great lengths to meet its obligation to perform practicable ordnance removal operations under the Panama Canal Treaty. Of the 353,000 acres of land in the former Panama Canal Zone, only 2 per cent would not be available for full reuse because it would be impracticable to remove the hazards. It took further steps to help ensure that the land that could not be fully cleared of ordnance did not cause safety risks to Panamanians.

19. The Special Rapporteur found that the information received from various government and non-governmental sources tended to corroborate the allegations that ordnance residues were still present over an extensive area of Panamanian territory. That area was also contaminated by toxic waste, which constituted a real hazard to human life and health. The Special Rapporteur therefore proposed to continue monitoring the efforts made to deal with the problem. She invited the Governments of the United States of America and Panama to continue their dialogue with a view to finding the best ways of settling the issue (E/CN.4/2000/50, paras. 72-88).

Case 2000/60 - Netherlands, Germany and other countries of the Organization for Economic Cooperation and Development (OECD): export to Asia of ships for extremely hazardous recycling operations

20. Representatives of Greenpeace International urgently drew the attention of the Special Rapporteur to the health and environmental dangers posed by the export to Asia of old ships contaminated by dangerous substances. The export of these ships from OECD member States, including the Netherlands and Germany, concerns India in the first place as the prime importer of ships destined for scrap (70 per cent of the total, providing 15 per cent of that country's steel needs), followed by Bangladesh, Pakistan, China and the Philippines.

21. Ships destined for ship-breaking contain significant quantities of asbestos, PCBs, hydraulic fluids, paints containing lead and/or other heavy metals, tributylin or TBT antifouling

coatings, contaminated holding tanks and other substances rendering them hazardous waste and extremely dangerous to human health and the environment when scrapped in the existing ship-breaking yards. According to the information provided by Greenpeace, the 40,000 people employed in the ship-breaking industry work in conditions described as particularly dangerous for their life and health (E/CN.4/2000/50/Add.1, paras. 54-60).

Case 2000/61 - Netherlands and Germany: export of plastic wastes containing hazardous substances

22. During her mission to the Netherlands and Germany, the attention of the Special Rapporteur was called to the potential danger for life and health that the export of plastic wastes represented. Allegedly, each year 15,000 tonnes of PVC waste from cables is created in the Netherlands. There are also indications that a considerable amount of cable waste is imported from Germany and Eastern European countries. The export of cable waste to countries like China and Pakistan was said to be economically interesting due to the copper content and the low costs in comparison with countries in Europe. Workers at the factories with copper-smelting facilities were exposed to hazardous fumes emanating from the burning of cables containing PVC. In addition, there was a potential risk of health problems affecting kidneys, lungs and liver. According to European legislation, cable waste is part of the green list, i.e. non-hazardous waste. This means that the export of cable waste for recycling purposes is legal. Nevertheless, the effect on the environment and human health resulting from poor recycling processes is a matter for concern (E/CN.4/2000/50/Add.1, paras. 60-67).

Case 2000/62 - Netherlands and Germany: export of pesticides

23. During her mission to the Netherlands and Germany, the Special Rapporteur was briefed by NGOs on the consequences on life, health and the environment of the trade and use of pesticides, particularly in developing countries. Some 5 million tonnes of pesticides are released into the environment every year. Despite the adoption in September 1998 of the Rotterdam Convention and the elaboration of legislation in a number of countries to regulate the export, import and use of pesticides, the situation in many developing countries is still a matter of concern owing to the existence of obsolete pesticide stocks. Moreover, there has been a sharp increase in the use of pesticides in these countries, which are unable adequately to control the use of especially dangerous products.

24. According to the NGO Pesticide Action Network (PAN), the statements by major German chemical transnational companies such as Bayer, BASF or Hoechst, that they no longer export obsolete products and those which cannot be sold or used in Germany, must be treated with caution. The companies claimed that they abide by the laws of the importing country and ensure that they do not export products which are outlawed in those countries. However, the situation on the ground is alarming with regards to illicit trafficking in pesticides and injury to life and health resulting from the improper use of these products in certain developing countries. For example, in Cambodia over 50 kinds of dangerous pesticides and organophosphorous compounds were allegedly exported to Cambodia through Thailand and Viet Nam. One of these products, Folidol, is an extremely dangerous pesticide manufactured by Bayer A.G.; Thiodan is manufactured by the German firm AgrEvo (E/CN.4/2000/50/Add.1, paras. 68-72).

Case 1999/38 - ?/Madagascar

25. The Special Rapporteur was informed that several thousand fish died in the Indian Ocean off the port of Manakara, south-east of Madagascar. Radio Madagascar, quoting port officials, allegedly stated that the fish died as a result of poisoning and that there was a foul smell in the port area. The fear was expressed that a number of persons might have collected and eaten the fish. According to the authors of the communication, this was not the first time that an incident of this nature had occurred. In 1993, 100 persons allegedly died in the same region after eating shark meat. It was also said that other people died in 1994 and 1995 under similar circumstances (E/CN.4/1999/46, paras. 73-75).

Case 1999/39 - Germany/Brazil

26. During her visit to Brazil, the Special Rapporteur was informed about the "accidental" export of a toxic product (420 litres of sodium sulphate) from Germany to Santos in January 1997. Although the German exporter agreed to take back the product, it was being stored in the port of Santos because the return procedures were protracted and it was difficult to find a shipping company which would agree to transport this toxic product to Germany (E/CN.4/1999/46/Add.1).

Case 1999/40 - United Kingdom/Brazil

27. During her visit to Brazil, the Special Rapporteur was informed about the export of four containers holding 68,332 kg of toxic wastes (copper, zinc and other heavy metals) which arrived in the coastal port of Santos (State of São Paulo) in December 1993. They had been declared as fertilizers and exported from London by the firm Euromet Hyde House, the Hide, and were destined for the Brazilian company Produquimica Indústria e Comercio Ltda. The consignee asserted that they had been misled as to the nature of the products. In 1996 and 1997, the Department of Environment found that the cargo did not tally with the information on the import documents, and asked for the assistance of the Secretariat for the Basel Convention, which forwarded the request to the British Government, on the basis of article 9 of the Basel Convention which provides for the return of dangerous or toxic waste to the country of origin. In a letter of 22 August, the British Government refused the "retroactive" return of the waste, on the grounds that it had not been declared as such in the loading manifest and that the British Government had not been a party to the Basel Convention at the time of the transaction (E/CN.4/1999/46/Add.1).

28. The Brazilian Government has clarified that the consignment of toxic waste was not allowed to enter the country and that it was retained at the port instead. Government authorities have been in contact with the Secretariat of the Basel Convention and with government officials of the exporting country in order to make possible the return of the products to the country of origin. Another possible solution envisaged would be to charge the exporting country with the costs originating from that illegal operation, inter alia, stocking, transport and judicial costs (E/CN.4/2000/50, para. 97).

Case 1999/41 - China, Germany, Netherlands/Haiti: shipping of contaminated pharmaceuticals to Haiti

29. According to communications received, from 1996 to 1997 at least 88 children in Haiti died of acute kidney failure after taking contaminated paracetamol syrup (liquid acetaminophen with trade name Afebril), made by Pharval, a pharmaceutical company in Haiti. The syrup was contaminated by impure glycerine delivered by the Dutch company, Vos BV located in Alphen aan de Rijn in the Netherlands. It is alleged that the company knew that the glycerine (the medical raw material for the medication) delivered to Haiti in 1995 was not pure. A report released by the Federal Drug Administration (FDA) of the United States revealed, among other things, that the glycerine was mixed with the antifreeze diethylene glycol. The glycerine delivered by Vos originated in China, but the FDA has not been able to determine the producer. The Chinese Government replied that, according to its investigations, Chinese firms have never exported impure glycerine to Haiti.

30. The directors of Vos BV denied that the company knew about the glycerine's impurity. Vos BV's German parent company, Helm AG, refused to discuss the matter further. The firm is one of the largest European chemical and pharmaceutical companies in the world. According to the response received from the German Government, there will be no further investigations of this matter in Germany, since there were no indications that the glycerine was illegally exported from Germany. An investigation was launched in the Netherlands in March 1998 and legal proceedings have commenced there. The Special Rapporteur met with the prosecutor handling the case during her mission in October 1999. She expressed the hope that the rights of the victims will be preserved by any decision to be taken. It was agreed that the decision will be transmitted to the Special Rapporteur (E/CN.4/1999/46, paras. 51-65 and E/CN.4/2000/50/Add.1, paras. 27-31).

Case 1999/42 - ?/Paraguay: mercury poisoning

31. In 1994, large numbers of fish in the Pilcomayo river died from mercury poisoning and some animals in the region lost their hair. Unfortunately, the Special Rapporteur was unable to visit the area during her mission to Paraguay. A doctor assured the Special Rapporteur that he had examined several patients from the Chaco region and that he had diagnosed the degeneration of their immune system due to unidentified toxic substances. He said that some patients had been incoherent and suffered from dizziness or migraines. Others had displayed blotches on the skin, which showed that they had been poisoned. The Paraguayan press reported this doctor's findings (E/CN.4/1999/46/Add.1, paras. 36-37).

Case 1999/43 - Germany/Paraguay: alternative fuel

32. During her mission to Paraguay, the Special Rapporteur learned from Paraguayan authorities about the export of an "alternative fuel" from Germany between 1989 and 1992. This "fuel", supplied in the form of a gift, was intended for the company National Cement Industry (INC), located at Vallemi in the Aquidabon region in the north of Paraguay. One hundred thousand tons of this product were to have reached the cement works every year. Mr. Heinrich von Kreyenberg, the honorary consul of Paraguay in Germany is said to have acted as intermediary for the gift of the fuel. Mr. von Kreyenberg has also been implicated in other

instances of illegal traffic of toxic waste to Paraguay (E/CN.4/1999/46/Add.1, para. 19). The use of "alternative fuel" in the Vallemi cement works caused the mysterious death of several employees in 1992. At the time, the authorities had claimed that these deaths were due to tetanus and had ordered a compulsory vaccination campaign. A variety of sources report that livestock was decimated in the area surrounding the works and that up to the present day there is no form of life in the vicinity (E/CN.4/1999/46/Add.1, para. 35).

Case 1999/44 - Germany/Paraguay

33. The Paraguayan Government informed the Special Rapporteur that 1,118 barrels of dangerous or toxic wastes had entered Paraguayan territory illegally and had been stored in the Port of Asunción since 1992. According to information submitted to the Special Rapporteur and supported by NGO reports, the illicit trade in toxic wastes to Paraguay involved German firms, dignitaries and Paraguayan government officials. In one case, the attempt to export toxic waste from Germany to Paraguay was uncovered by the German police in 1990, and the Honorary Consul of Paraguay in Dusseldorf, Mr. Heinrich von Kreyenberg, was sentenced to four years' imprisonment for his involvement (but later released on parole after 10 months' detention) (E/CN.4/1999/46/Add.1, paras. 15-21).

34. On the invitation of the Government, the Special Rapporteur conducted a field visit in the country (E/CN.4/1999/46/Add.1).

35. The Secretariat for the Basel Convention sent a team of experts to Paraguay at the Government's request in January 1998. The experts analysed samples from the barrels of toxic wastes and sent their report to Paraguay (E/CN.4/2000/50, para. 107). The barrels are currently stored in the Port of Asunción, separated into categories of products (acids, alkalis, sundry chemical products) according to the experts' analysis. Inside the hangar, the barrels are surrounded by a protective wall some 80 cm high, built in January 1998 following an expert's visit, to avoid any risk of contamination of the Paraguay river from flooding (E/CN.4/2000/50, para. 113).

36. The case was investigated by the Criminal Court of First Instance of the Octavo Turno. Some of the barrels were sent to the National Institute for Technology and Standardization (INTN) under the judge's ruling. The National Executive Committee on the implementation of the Basel Convention was also reactivated by the Paraguayan administration following the Special Rapporteur's recommendation. The committee considered several measures and submitted them to the attention of the judge. The measures included the transfer of the barrels to ensure safe storage, and seeking the assistance of other parties to the Basel Convention to destroy the barrels under suitable conditions (E/CN.4/2000/50, paras. 109-111). The Special Rapporteur has reiterated her recommendations and appeal for appropriate international assistance.

Case 1999/45 - United States/Costa Rica

37. During her mission to Latin America, the Special Rapporteur learned about the use of dibromochloropropane (DBCP) in Costa Rica between 1967 and 1979. This toxic product caused the irreversible sterility of more than 11,000 workers on the banana plantations of the

American firms United Fruit Company and Standard Fruit company. There may have been more victims who remained unknown due to the high mobility of banana plantation workers. Although the United States banned the production and use of DBCP in its territory in 1975, Standard Fruit continued to import it into Costa Rica until 1979. The Costa Rican Government did not prohibit its import until 1988. Supervisors at the plantations did not know of the dangers of DBCP, and Shell and Dow, the companies which developed the product, only offered basic sales information (E/CN.4/1999/46/Add.1, paras. 57-59).

38. This case has still continuing repercussions. Since 1982, more than 9,000 workers from the banana plantations have lodged complaints with courts in the United States (in Texas and New Jersey) against Shell Oil, Dow Chemical, Standard Fruit and United Fruit. Six thousand of these workers have also applied to Costa Rican public institutions (the Social Security Institute and Health Services Department) for compensation for industrial risks and injury. These workers have claimed compensation, but have still not obtained satisfaction. The ombudsman has been dissatisfied with the assistance provided by the joint teams of lawyers from Costa Rica and the United States, and has therefore decided to take up the matter in order to help the victims and organize the appeals (E/CN.4/1999/46/Add.1, para. 60). The Defensoría de los Habitantes de Costa Rica (Ombudsman) has since informed the Special Rapporteur that neither the companies involved nor the Costa Rican Government have paid any compensation to the victims or their families, despite the fact that their liability has been legally proved (E/CN.4/2000/50, para. 105). The Special Rapporteur recommended that the harmful effects of DBCP should be investigated more thoroughly (ibid., para. 61). She suggested that the WHO should provide technical assistance in order to produce chemical data concerning the state of health of women who have been in contact with DBCP (E/CN.4/2000/50, para. 106).

Case 1999/46 - United States/India and other developing countries

39. According to reports received by the Special Rapporteur, the Government of the United States supported the continued export of United States Navy vessels and other ships to extremely hazardous recycling operations in developing countries. Ships destined for ship-breaking contain significant quantities of asbestos, PCBs, hydraulic fluids, paints containing lead and/or other heavy metals, tributylin or TBT antifouling coatings, contaminated holding tanks and other substances rendering them hazardous waste and extremely dangerous to human health and the environment when scrapped in the existing ship-breaking yards. At the port of Alang in the Indian state of Gujarat, the largest ship-breaking yard in the world, it is estimated that at least one worker dies every day and that 25 per cent of the workforce developed cancer in the medium term.

40. The United States Government replied that its ships were not toxic and that their export did not constitute the export of hazardous or toxic waste. The Secretary of the Navy issued a moratorium in December 1997 suspending such export until the process of scrapping was thoroughly examined. An Interagency Ship Scrapping Panel, formed in 1997 to review scrapping programmes, recommended that the option to scrap vessels should not be foreclosed. The Agency made more specific recommendations, such as a pilot project to analyse the scrapping process. In the light of these developments, the Department of Defense had no immediate plans to export ships for the purpose of scrapping (E/CN.4/1999/46, paras. 66-72 and E/CN.4/2000/50/Add.1).

Case 1999/47 - United States/Mexico: project to build a nuclear waste store at Sierra Blanca, Texas, United States

41. The La Paz Agreement prohibits the siting of nuclear installations within 100 km of either side of the border. The State of Texas had planned to store 1.8 million m^3 of radioactive material at this location for 30 years. The risks of accidents due to the geological instability of the region and the similarity of the economic and social conditions and ethnic characteristics of the inhabitants on both sides of the border triggered a powerful reaction of solidarity among the people living along the border. The residents of Sierra Blanca, most of whom are of Mexican origin (as is the population of the whole of the border area) and economically disadvantaged, saw this plan as a form of "environmental racism" and part of a strategy to turn the border zone, if not the north of Mexico, into a dustbin. It particularly objected to the fact that the radioactive waste to be contained at the planned site was to have come from the States of Vermont and Maine in very north of the United States. Thanks to joint pressure from Mexican and American ecological organizations, support from the Mexican Federal Congress and parliamentary bodies in the Mexican border states of Coahuila and Chihuahua and the diplomacy of the Mexican Government, in June 1988, the Texas Natural Resources Conservation refused to give this project the go-ahead (E/CN.4/1999/46/Add.1, para. 79).

Case 1999/48 - United States/Mexico: maquiladoras

42. During her mission to Latin America, the Special Rapporteur was informed that more than 2,000 firms benefiting from special customs and tax rules ("maquiladoras") set themselves up in the border region of Mexico in the seventies and eighties, and employed more than 750,000 people. Under these rules, the raw materials these companies import are duty-free and, in return, the waste from the processing of these materials must be repatriated to the country of origin, usually the United States. According to OECD estimates, the "maquiladoras" sector produced some 60,000 tons of dangerous waste a year. Official documents indicate that 48,000 tons of waste were processed and returned to the United States in 1996 compared with 22,000 tons in 1993. The Mexican Government intended to make an inventory of the dangerous waste produced, so as to determine whether the discrepancy of 12,000 tons between estimated and recorded production reflected true waste production in Mexico, or whether the estimate was too high. Inspections of the "maquiladoras" would seem to show that about 25 per cent complied fully with the regulations and that there were fewer serious irregularities.

43. However, other sources informed the Special Rapporteur that many "maquiladoras" illegally dumped their dangerous waste in Mexico in fly-tips near to the border. According to OECD estimates, in 1996, only 12 per cent of the 8 million tons of dangerous industrial wastes produced annually in Mexico was properly processed. It was alleged that numerous potentially dangerous sites exist in border area States. In 1991, out of 1,855 "maquiladoras", only 200 are reported to have sent their dangerous waste back to the United States in accordance with the bilateral agreement of 1987 regulating movements of waste between Mexico and the United States. Grave concerns were also expressed about the change in tax regulations scheduled for 2000-2002. These new regulations would exempt firms from the obligation to re-export their waste (E/CN.4/1999/46/Add.1, paras. 80-82).

44. Communications sent to the Special Rapporteur reported that maquiladoras were not even required to provide information to workers or community residents about emissions or chemicals used or stored. Incidents reported included children intoxicated at a dump in Ciudad Juarez by sniffing green rocks covered with a solvent containing toluene, and a maquiladora that closed down and left a dozen 55-gallon drums of hazardous material in an abandoned building (E/CN.4/1997/19, para. 67).

Case 1999/49 - United States/Mexico

45. Electric Arc Furnaces. The OECD report on the state of the environment in Mexico mentioned that dust from anti-pollution devices fitted to electric arc furnaces in the United States were exported to Mexico. In 1992 and 1993, some 72,000 tons were allegedly dumped in Mexico. Similarly, it was reported that in 1996, 15,000 tons of waste entered the country for the purpose of salvaging metals (E/CN.4/1999/46/Add.1, para. 83).

Case 1999/50 - export from ?/ to Brazil of pesticides and fertilizers

46. During her mission to Latin America, the Special Rapporteur was informed that the import and use of toxic products, like pesticides and fertilizers, in agriculture was the subject of serious concern among NGOs, Brazil being considered as the second biggest user in the world of toxic agricultural products which entered the country without permanent controls because of pressure from growers and planters. The Brazilian authorities acknowledged that despite the existence of a list of chemicals authorized for entry into the country, the regulations covering the import of toxic agricultural products were still full of loopholes and that there are within MERCOSUR ongoing negotiations with a view to harmonizing criteria for and the list of authorized imports. It was estimated that Brazil had a stockpile of 800 tons of no longer usable toxic agricultural products based on aldrin and chlorine, which had to be gradually destroyed. Brazil also wanted to dispose of a stock of polychlorinated biphenyls (PCB) (E/CN.4/1999/46/Add.1, paras. 96 to 97).

Case 1999/51 - Export from ?/ to Paraguay of pesticides and fertilizers

47. In Paraguay, reference was made to the virtually uncontrolled entry of pesticides and fertilizers which were known to have detrimental effects on the environment and human health. Many agricultural labourers employed in the soya and tomato fields were exposed every day to these dangerous products, owing to a lack of training in their use and the absence of protective gear. Some NGOs taught the local community which were particularly affected by the use of pesticides and fertilizers on the farms where they worked, how to recognize dangerous substances and avoid contact with them. Nevertheless, the NGOs emphasized that the resources at their disposal were extremely modest (E/CN.4/1999/46/Add.1, para. 99).

Case 1999/52 - Export of pesticides from ?/ to Costa Rica and other Latin American countries

48. Of all the developing countries, Costa Rica was deemed to be the biggest pesticide importer: 294 types of products entered the country and were marketed under 2,092 trade marks. Between 1992 and 1997, Costa Rica imported approximately 40.8 million kilograms of pesticides at a cost of 540.3 million dollars. Total recorded imports in 1997 (8,971,359 kg)

were 61 per cent up on those in 1992 (5,563,191 kg). During the same period, the quantity of pesticides applied per cultivated hectare rose from 12.56 kg/hectare to 20.47 kg/hectare, which was more than in many Latin American, European, North American or African countries. According to the WHO, they were comparable to the amounts used in the Netherlands in 1991 and in Japan in 1990. This increased use of pesticides was related to the expansion of banana growing, which alone accounted for 35 per cent of the pesticides imported into the country. The Special Rapporteur was apprised of numerous cases in which banana plantation workers and members of their families had been poisoned. Particular stress was laid on the effects of paraquat, a herbicide which, owing to its effectiveness and low cost, was still imported into Costa Rica, Mexico and other Latin American countries (E/CN.4/1999/46/Add.1, para. 100).

Case 1999/53 - ?/Brazil: bovine somatotrophin (BST)

49. In Brazil, the use of bovine somatotrophin (BST) was condemned by NGOs. This product made it possible to increase the weight of cattle and boost the milk production of cows, but its effects on the human organism were as yet unknown. The ban on its use in the United States was ominous. The Brazilian Government wanted to prohibit imports of this substance, but faced stiff opposition from breeders (E/CN.4/1999/46/Add.1, para. 101).

Case 1999/54 - United States of America/Latin America: export of used batteries

50. NGOs in Latin America expressed their concern about the import of used batteries from the United States for recycling in order to extract the lead. At the tenth session of the Technical Working Group of the Basel Convention in Kuala Lumpur in April 1996, lead waste from used batteries was placed on the "A" list, that is to say on the list of dangerous products which may not be exported. Under the legislation of the United States, the lead contained in used batteries is not regarded as dangerous, unless it has been ground. But there is good reason for concern about the effects on the environment and human health from the use of lead from old batteries in the countries to which this waste is exported. Lead poisoning upsets the metabolism, causes neuro-psychological disorders and saturnism (E/CN.4/1999/46/Add.1, para. 102).

51. In Mexico, "maquiladoras" import this type of waste, which is left in the open air and in contact with the ground, with the result that cases of contamination have been detected in the towns of Ciudad Juarez and Matamorros, for example. In Brazil, the main importer named was the firm MOURA in the State of Pernambuco, in the north of the country (E/CN.4/1999/46/Add.1, para. 103). Communications from Greenpeace and the Asociação Pernanbucana de Defesa da Natureza (ASPAN) state that on-site surveys at MOURA's workshops in the town of Belo Jardim (40,000 inhabitants) in the State of Pernambuco, revealed a high level of ground, air and water pollution by lead, due to the improper storage of waste (out of doors) and operating conditions which abuse the environment. Several of the firm's employees suffered from lead poisoning after being exposed to lead dust. The medical examination of some employees revealed an abnormally high level of lead in their blood and symptoms of neurological and organic dysfunctioning. But it was reported that MOURA had not taken any steps to improve the working conditions of its labour force and merely prescribed analgesics, tranquillizers and vitamins. From January to June 1997, 5,702 tons of lead from old batteries were imported into Brazil, 88 per cent of which came from the United States (E/CN.4/1999/46/Add.1, paras. 103-104).

Case 1999/55 - Export of incinerators to Brazil and Mexico

52. NGOs in Latin America expressed their concern about the siting of incinerators in Brazil and Mexico. In the State of Pernambuco, in the north of Brazil, an abortive attempt was made to build a toxic waste incinerator in 1992. The State administration of Pernambuco received a proposal from two American companies to build an incinerator for industrial waste from the United States in the valley of the Piracicaba river in order to generate electricity. Thanks to pressure from ecologists in the Asociação Pernambucana de Defesa de Natureza (ASPAN) and the Society for the Defence of the Environment of Piracicaba and to spirited opposition from the local population, the authorities of Pernambuco had to reject this offer. In Mexico, fears were expressed about the growing number of incinerators in the border area. When the maquiladoras' special tax system ends in the year 2000, they would no longer be bound to export their waste, but to process it on the spot. This could explain the trend towards the building of incinerators - which emit air pollutants and jeopardize health (E/CN.4/1999/46/Add.1, para. 105).

Case 1999/56 - ?/Paraguay: toxic waste dumping in interior of country

53. During her mission to Paraguay, the Special Rapporteur received information about several incidents of toxic waste dumping in the interior of the country, particularly the Chaco region which was under army control until 1996. In 1992, a parliamentary commission investigated the presence of 250 barrels buried in Chaco. The inquiry was broken off as a result of pressure from persons who might have been implicated in the deal. In 1993, the autonomous region of Nivakle refused the gift of 8,520 hectares in Chaco on the grounds that barrels containing unidentified products had been buried in the territory assigned to it. In January 1998, several judges and public prosecutors initiated inquiries in response to complaints that barrels of toxic waste had been buried in several places within the country. These members of the state legal service encountered difficulties in eliciting the truth owing to the vegetation, the vagueness of the information supplied and threats from persons suspected of having taken part in these operations.

54. Other areas where toxic waste dumps were found include: the village of Maria Roque Alonso; Teniente Ochoa, Chaco; Suribi, district of Limpio; Fortin General Dias, Chaco. It is claimed that between 1989 and 1992, more than 1,000 barrels were buried with the collusion of senior army officers. When the Government changed, the army placed itself at the disposal of the new authorities in an attempt to locate sites where toxic waste might have been dumped (E/CN.4/1999/46/Add.1, paras. 30-34).

Case 1998/34 - Belgium/Lebanon

55. In October 1996, the Lebanese factory Saltex reportedly imported two containers full of mixed plastic wastes, declared as plastic bags. The owner of Saltex B who was later arrested apparently got the waste in France through a Lebanese businessman. The two containers arrived in Beirut port from Belgium and were confiscated by the Lebanese authorities after experts from the Ministry of Environment found that the waste was contaminated with pharmaceutical chemical substances, and concluded that it could not be recycled in Lebanon and was meant for final disposal (E/CN.4/1998/10, para. 43).

56. In its reply the Government of Belgium stated that the authority concerned (Afvalstoffenmaatschappij voor het Vlaamse Gewest, OVAM) conducted the necessary investigation after being informed about the issue by the Secretariat of the Basel Convention. There was no notification although the waste was subject to notification prior to exportation. The producer of the waste committed himself to taking back the waste. A procès-verbal was initiated against the exporter in order to determine the amount of the fine to be levied (E/CN.4/1998/10).

Case 1998/35 - Germany/China

57. Between 1993 and 1995, the Hualong ("Splendid") Chemicals Corporation in Jiangxi province illegally imported over 40,000 tons of mixed plastic waste from Germany. The waste polluted the local soil and water, and adversely affected people's health. According to the Government of China, the Environmental Protection Bureau has dealt severely with this case. Part of the waste has been returned to Germany, and the remainder has been appropriately dealt with under the supe ision of the local Department of the Environment.

58. The Government of China stated that the Chinese Government takes environmental protection seriously and imposes strict limits on the dumping and incineration of toxic wastes and on environmental pollution. The importation of a small number of recyclable materials is authorized only after an appraisal of the environmental risk and with the approval of the Environmental Protection Bureau. Any transfer of materials to China without such approval constitutes illegal importation. Such cases, when discovered, entail removal of the materials from the country, and those responsible are severely dealt with (E/CN.4/1998/10, paras. 45-47).

Case 1998/36 - Israel/Syrian Arab Republic

59. The Government of the Syrian Arab Republic brought to the attention of the Special Rapporteur that various kinds of radioactive and hazardous wastes were being disposed of at different points in the Mediterranean Sea by Israel. It was alleged that about 2.5 million cubic metres of polluted water, including hazardous materials from chemical companies in Jaffa, were dumped into the Fesho River which flows into the Mediterranean. It was also alleged that since 1991, Israel dumped about 50,000 tons/year of hazardous wastes into international waters.

60. In its reply the Government of Israel stated that the Syrian letter made unfounded accusations and groundless allegations against Israel. It seemed that the complaint was based on articles which appeared in the Israeli press concerning a chemical company in the Haifa Bay area and the disposal of their industrial wastes. According to Israel, the factory was operated under the close supervision of the Inter-Ministerial Dumping and Land Based Sources Committees and met all the necessary environmental criteria stipulated by Israeli law and the relevant Protocols to the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution (in force since 1978). The national monitoring reports showed that the water quality along the Israeli coastline, including the area north of Haifa, was good and the coastlines themselves were clean, meeting all national and international standards (E/CN.4/1998/10, paras. 49-50).

Case 1998/37 - Finland/South Africa

61. A Finnish company, Kokkola Chemicals OY, attempted to export a consignment of hazardous material containing cupric arsenite to a South African company, JAD Metal Concentrators (Pty.) Ltd. The incident provoked such an outcry from environmental movements that the import was stopped and a commission of inquiry was set up in consultation with all parties involved, including NGOs (E/CN.4/1998/10/Add.2, para. 14). The Commission completed and submitted its report to the State President. The Government indicated that once this report was approved, a copy would be forwarded to the Office of the High Commissioner for Human Rights (E/CN.4/2000/50, para. 9).

Case 1997/1 - France and the United States/Myanmar

62. According to the communication received, in Myanmar, Total - together with Unocal, a Los Angeles-based oil and gas multinational, and Texaco - collaborated with the Government of Myanmar in an offshore natural gas project. Reportedly, Texaco's pipeline was to run parallel to a pipeline being built by Unocal and Total. In order to construct a pipeline through the rainforest, the army declared "free-fire zones" in which soldiers were authorized to shoot civilians, including members of the Karen tribe, an indigenous ethnic minority group whose homeland was the pipeline area. Indigenous peoples were forced to work on clearing forest areas to prepare them for oil and gas exploration and transportation. All of the victims were thought to be Karen; some of them had been evicted from the location of the planned pipeline to areas where means to earn a living were scarce (E/CN.4/1997/19, para. 47).

63. The French authorities replied that they did not consider this to be a case of illicit dumping of toxic or dangerous products and wastes. The case therefore exceeded the mandate as defined in resolution 1995/81 (E/CN.4/1998/10/Add.1).

64. The Government of Myanmar replied that Myanmar was neither a State where illicit traffic of toxic or dangerous products and wastes originated nor a State recipient of such traffic. The natural gas fields in the Gulf of Mottamma were being developed with the participation of Total (France), Unocal and Texaco (United States) and some other foreign oil companies. The route selected for the gas pipeline was the one that posed the least threat to the environment, and it did not pass through any village. The two foreign oil companies involved in the project actually helped the people living along the route of the pipeline by providing new economic opportunities for the villagers, thus improving significantly the lives of the local populace. Independent media persons and concerned officials from Western countries made extensive tours of the areas in question and none of these sources supported any of the allegations mentioned in the report (E/CN.4/1998/10/Add.1).

Case 1997/2 - United Kingdom/Colombia

65. British Petroleum (BP) was reportedly responsible for collaborating with Colombian soldiers involved in serious violations of human rights: BP allegedly passed on information about local people protesting oil activities to the Colombian military who then arrested or kidnapped them on grounds of being subversives. Reportedly, in the summer of 1996, BP signed

an agreement with Colombia's Ministry of Defence to create a battalion of 150 officers and 500 soldiers to monitor construction of a 550-mile-long pipeline; it seems that all oil companies operating in Colombia have to pay a "war tax" to help fund the war against those who want to nationalize Colombia's oil industry. The company was also held responsible for environmental damage ranging from devastating a protected forest, to polluting a river, to damaging bridges and roads that local people use to transport their products to market. Yet, in November 1996 BP urged the Colombian Government to investigate allegations concerning its employees who were supposedly collaborating with the army and its paramilitary allies (E/CN.4/1997/19, para. 61).

66. The Government of the United Kingdom has replied that the conduct of BP and the Colombian army and its paramilitary allies was outside the mandate of the Special Rapporteur. Given the lack of detail, it was not possible to investigate the truth or otherwise of the allegations of environmental damage (E/CN.4/1998/10/Add.1).

Case 1997/3 - /Lebanon

67. In September 1996, a victim reported that the dumping of toxic wastes in Lebanon resulted in the hospitalization of a man whose family was charged US$ 30,000 for medical treatment (E/CN.4/1997/19, para. 53).

Case 1997/4 - Netherlands, United States/India

68. According to information received, the Netherlands and the United States were the main exporters of zinc scrap to the Bharat Zinc company in India. Allegedly, this company imported thousands of tons of metal waste from which it reclaimed zinc. It caused air pollution by disposing of the rest of the residues without the proper facilities for doing so. Its employees were also inadequately protected against the effects of hazardous waste in its Mandideep plant, 23 km outside of Bhopal (E/CN.4/1997/19, paras. 50 and 54).

69. The Government of the Netherlands stated that it ceased exporting zinc scrap to Bharat Zinc in India in September 1995. Before directive 259/93 of the European Community entered into force in 1994, there was no regulation of wastes of this kind. According to the EC directive, where the zinc is to be recovered (for a useful application), zinc scrap can be designated as either a green or amber list substance. In principle, no restrictions apply to the export of green list substances (although they must be destined for processing in a properly licensed installation), while a notification procedure applies to amber list substances. This distinction was not however relevant to India as that country had announced that it also wished to control shipments of green list substances by means of a notification procedure. Between 6 May 1994 and September 1995, a few notifications were received of plans to export zinc scrap to India. As the competent Indian authorities granted permission for the import of such waste, and in the absence of policy-related objections, permission was granted to export the zinc scrap. In September 1995, information was received from Greenpeace that environmentally unsound processing methods were possibly being applied to this waste. In response, all exports of zinc waste to India were banned until further notice. The Indian Government since informed the European Commission that the import of green list zinc scrap was no longer subject to a

notification procedure. In principle, no more restrictions apply to the export of such zinc waste (the competent Indian authorities have issued all relevant licences to Bharat Zinc). This change in the attitude of the Indian authorities did not lead to the resumption of exports of this waste from the Netherlands to India (E/CN.4/1999/46, paras. 89-93).

70. The Government of the United States replied that no information was provided regarding the types of hazardous wastes that were alleged to have been exported to Bharat Zinc (E/CN.4/1998/10/Add.1).

Case 1997/5 - Germany/India

71. Reportedly, the German company Wilhelm Grillo was one of the main exporters to Bharat Zinc Ltd., a company that allegedly imported thousands of tons of metal waste from which it reclaimed zinc. It caused air pollution by disposing of the rest of the residues without the proper facilities for doing so. Its employees were also inadequately protected against the effects of hazardous waste in its Mandideep plant, 23 km outside of Bhopal (E/CN.4/1997/19, para. 50).

72. The Government of Germany stated that this communication was based on unfounded reports by the press dating back to 1995. The exports reported were not illegal. They had been approved by both the competent German and Indian authorities. The Indian recipient had the necessary permit from the Indian authorities to process the zinc powder imported from Germany (E/CN.4/1998/10/Add.1).

Case 1997/6 - Australia/Philippines, China

73. In 1994, Philippine customs officials impounded two 12-metre-long containers of computer waste from Australia. When this type of waste arrived in China, workers stripped the cables for copper wire and the remaining material was either burned or stockpiled. These practices could be dangerous and it was uncertain whether workers are informed about the risks involved (E/CN.4/1997/19, para. 39).

74. The Government of China, after investigating the allegations, stated that China's National Environment Protection Agency had never approved the shipment of two containers of computer scrap from Australia, nor did Chinese regulations allow waste to be imported from abroad in order to be burned. The Government of China imposed strict limits on the dumping and burning of toxic waste damaging the environment. It allows only small quantities of recyclable waste to be used as raw material after careful assessment of environmental risks and with the approval of the National Environment Protection Agency. The entry of any other kind of waste into the country from abroad without the Agency's permission is deemed to be illegal. According to law, any waste detected shall be returned to its source, and the offending party shall be rigorously prosecuted (E/CN.4/1998/10, para. 48).

75. The Government of Australia responded that, upon investigation, the electronic scrap was found not to contain hazardous constituents and the containers were subsequently allowed entry into the Philippines. With regards to the practice of burning off plastic from copper wires, there

was no evidence to suggest that burning or a similar mode of treatment was used in this case. It is a matter of debate as to whether plastic coated cable is generally considered as hazardous waste under the Basel Convention (E/CN.4/1998/10/Add.1).

Case 1997/7 - Netherlands, United States/Nigeria

76. Allegedly, in order to allow the non-indigenous residents and employees of the Shell transnational corporation projects (Royal Dutch Shell and Shell Oil USA) to carry out business ventures without being molested, the southern Nigeria region populated by the Ogoni has been occupied by the police since May 1994. Human rights violations have been reported, in addition to sporadic and discretionary enforcement of environmental regulations. Unlined toxic waste pits allowed pollution to seep into drinking water supplies, thus threatening the right to health of surrounding communities. Calls for compensation from the oil companies were often met with claims of sabotage or payment of compensation to the Government, little of which reached the local villagers (E/CN.4/1997/19, para. 55).

77. The Government of Nigeria responded that Shell Oil was a Netherlands/United Kingdom multinational corporation, and not a Netherlands/United States joint venture. The Government of Nigeria monitored the activities of Shell, as well as those of the other oil companies to ensure that all their drilling and prospecting procedures conformed to local environmental laws and attended to the environmental needs of the local population. The head of the monitoring unit of the Nigerian National Petroleum Corporation - which, together with the Federal Protection Agency, was charged with these responsibilities - was from the Ogoniland, as is the Minister of Petroleum. All federal and state government compensation is made directly through a federal government parastatal, the Oil Mineral Producing Areas Development Commission (OMPADEC), whose membership was comprised solely of indigenous people of the oil-producing areas, including the Ogoni areas. The allegation that the Ogoniland "has been occupied by the police since May 1994" was baseless. In this regard, the report of the Secretary-General's fact-finding mission to Nigeria (A/50/960 of 28 May 1996) as well as the interim response of the Government of Nigeria to the above-mentioned report in a letter dated 21 May 1996 from the Special Adviser (Legal Matters) to the Head of State of Nigeria addressed to the United Nations Secretary-General (A/50/960, annex II) are relevant (E/CN.4/1998/10/Add.1).

78. The Government of the Netherlands replied that it had no jurisdiction over the Shell Petroleum Development Company of Nigeria, since that Shell subsidiary was established under Nigerian law. The Netherlands authorities could not, therefore, institute proceedings under either civil or criminal law in response to allegations concerning forms of environmental pollution for which this company may be responsible, and the allegations should be taken up with the Nigerian Government (E/CN.4/1999/46, para. 9).

Case 1997/8 - United States/Ecuador and Peru

79. According to information received, the oil industry was considered the biggest destroyer of Ecuador's 13 million hectares of rainforest inhabited by eight groups of indigenous people. Allegedly, 1 million hectares of the country's forest have been destroyed and 90 per cent of this

destruction was due to the operations of Texaco/PetroEcuador. (Texaco had 330 wells in Ecuador. It has left the country, but PetroEcuador has taken its place.) Inevitably, these operations have affected the health of the people living in these areas. Some 30,000 Ecuadorian victims of Texaco's abuses have sued the company in its home State of New York, asking it to stop dumping waste and to invest in new technology. In 1994, Texaco reached an agreement with the Government of Ecuador for the company to remedy any damage caused by its oil drilling operations. The plaintiffs' litigation team then filed a complaint on behalf of approximately 25,000 Peruvians living along the Napo River. In 1995, the judge ordered consolidation of the two suits (E/CN.4/1997/19, para. 72).

80. The Government of the United States replied that it had stringent laws in place regarding the management and disposal of hazardous wastes and the transboundary movement of these wastes and long supported the underlying principles of the Basel Convention. Most of the allegations contained in the Special Rapporteur's report did not fall within her mandate, and involved issues that were matters of local jurisdiction, questions for local authorities or domestic business arrangements established under and subject to local regulations (E/CN.4/1998/10/Add.1).

Case 1997/9 - United States/Indonesia and Papua New Guinea

81. Pollution from Texaco's Caltex operations in Indonesia was allegedly responsible for killing fish in Siak River tributaries, destroying rubber trees near the streams and causing skin diseases among Sungai Limau villagers. Freeport-McMoRan, a New Orleans-based mining company operating in Irian Jaya, in the island of New Guinea, Indonesia was reportedly responsible for dumping 120,000 tonnes of toxic waste per day into local rivers, thus contaminating local fish and vegetation and causing severe health problems for the people that live near the river. The Amungme, a highland people, were reportedly displaced from their land in a series of forced removals which began after 1973; the estimated 5,000 Amungme and Komoro peoples evicted from the area have received no compensation. Since 1994, the killing or disappearance of 22 civilians had been reported. In 1996 a $6 billion lawsuit was filed in a United States district court in New Orleans which, reportedly, charged Freeport-McMoRan with responsibility for a range of human rights and environmental abuses which have had a strong impact on the tribal communities whose natural habitats have been affected (E/CN.4/1997/19, para. 73).

82. The Government of Indonesia replied that efforts were under way to introduce a new more comprehensive Environmental Act which incorporated new elements, inter alia the community's or people's responsibility and participation in environmental protection and the need for an environmental audit. In 1995, the Government of Indonesia renegotiated the first generation of working contracts between the copper and gold mining companies in Irian Jaya. A new working contract was concluded with PT Freeport Indonesia (PTFI), which basically covered the technical, financial, fiscal, manpower, environmental and community development aspects of the mining activities. Under the contract, PTFI committed itself to take the necessary measures in "tailings" and "overburden" management with a view to maintaining and promoting environmental protection in the area where it operated. PTFI also showed a more responsive business attitude towards the surrounding situation and conditions, such as through its

positive contributions to the promotion of public health services. Allegations relating to the pollution caused by the operations of Texaco's Caltex company in Riau, Sumatra lacked clarity, making their credibility questionable (E/CN.4/1998/10/Add.1).

Case 1997/10 - Germany/Albania

83. Reportedly, in 1993, 239 tons of hazardous pesticides from Germany, stored in leaking drums, were found at the northern Albanian border, endangering Lake Shkoder and the water supply of large parts of the southern Balkans. The German Government was requested to take it back. Reportedly, in 1994, 450 tonnes of expired pesticides - originally sent to Albania as "humanitarian aid" - returned to Germany after more than three years in Albania, where the badly packaged and leaking containers had posed a threat to the land, water and people in Bajza and Miloti provinces. Some of the waste was burnt in German incinerators, and the rest consigned to a waste storage facility (E/CN.4/1997/19, para. 48).

84. The Government of Germany replied that, without being legally obliged to do so, the German Government brought back 500 tons of expired pesticides from Albania and disposed of them in Germany in an environmentally sound manner (E/CN.4/1998/10/Add.1).

Case 1997/11 - Saudi Arabia, Singapore/Philippines

85. Reportedly, in the last three years Saudi Arabia and Singapore have emerged as two of the major exporters of scrap batteries to the Philippines. Figures from 1994 to April 1996 indicate exports totalling respectively 9,440 tons, and 9,280 tons (E/CN.4/1997/19, paras. 56 and 57).

Case 1997/12 - Australia, Japan, New Zealand, United Kingdom, United States/Philippines

86. Reportedly, in the first six months of 1993, waste traders from Australia, Japan, New Zealand, the United Kingdom and the United States shipped over 16,000 tonnes of battery scrap to the Philippines, violating a national law (Republic Act No. 6969) banning such toxic waste imports. Australia seemed to be one of the top exporters of used lead acid batteries to the Philippines. The vast majority of the waste went to Lead Smelter Inc., a lead smelter near Manila now called Philippines Recyclers Inc. (PRI), a local subsidiary of the United States firm Ramcar Batteries Inc. which, despite emission control devices, was polluting the nearby river and surrounding fields. Battery wastes also found their way to small battery recyclers. Workers in these plants were subjected to lead exposure: they usually showed high levels of lead in their blood, complained about health problems, and some were hospitalized. Some worked in unventilated rooms without protective clothing. According to reports, residents around the lead smelters also complained of health problems, such as severe breathing difficulties, and some had to move because of the fumes from the smelters (E/CN.4/1997/19, para. 41).

87. The Government of the Philippines replied that the Department of Environment and Natural Resources started regulating the importation of scrap batteries in July 1994. Currently, the Philippine Recyclers, Inc. (PRI) is the only legal importer of scrap batteries in the country. The amount of scrap batteries allowed to be imported is being reduced until a total ban is achieved at the end of 1997 in conformity with the Basel Convention commitments. In the

meantime, only those scrap batteries that can be safely recycled are allowed in the country. There are specific Philippine regulations intended to screen out scrap batteries that can no longer be safely recycled. PRI is regularly monitored for compliance with air quality, water effluent and solid waste disposal standards. Philippine regulations for processing of parts of scrap batteries are fully consistent with its commitment to the Basel Convention, thereby discouraging the international traffic of wastes (E/CN.4/1998/10/Add.1).

88. The Government of Australia replied that Australian exports of used lead acid batteries to the Philippines took place at a time when the Australian Government had no jurisdiction over exports of used lead acid batteries to the Philippines. The Government of Australia drew the attention of the Special Rapporteur to the legislation enacted by the Australian Parliament in 1996 which guarded against the possibility of illegal traffic in hazardous wastes (E/CN.4/1998/10/Add.1).

89. The Government of New Zealand replied that it was not a party to the Basel Convention at the time the alleged exports took place. The case does fall under the Special Rapporteur's mandate and did not involve "dumping" since the batteries were not subject to disposal but rather recycled as an input into industrial process in the Philippines. Consequently, the allegations involved violations of Philippines law which were a matter within the jurisdiction of the Philippines Government (E/CN.4/1998/10/Add.1).

90. The Government of the United Kingdom replied that given the lack of detail of the allegations, it has been unable to find any documentary evidence which might confirm or deny the truth of the allegations (E/CN.4/1998/10/Add.1).

91. The United States replied that its laws and regulations allow the proper export of certain battery scrap for recycling operations, and the United States supports environmentally sound recycling programmes (E/CN.4/1998/10/Add.1).

92. The Japanese Government replied that it was unable to provide any information as to the allegations, owing to the fact that no Japanese company was specifically named in the allegation, nor could any company be identified despite extensive inquiries (E/CN.4/1998/10/Add.1).

Case 1997/13 - Australia, United Kingdom/Indonesia

93. In 1992, Australia allegedly exported more than 11,000 tonnes of battery scrap to Indonesia where IMLI - the largest battery waste importing plant in Indonesia - burnt it. In the first five months of 1993, the United Kingdom allegedly shipped over 700 tonnes (compared with 200 tonnes shipped in 1992) of lead acid batteries to the same plant. When the plant began operations in the late 1980s, villagers believed it was a wood processing plant. Instead, IMLI burned 60,000 tonnes of lead acid batteries each year, threatening the surrounding environment and the health of the nearby community whose lead levels were between two and three times greater than the acceptable occupational health standards. IMLI also dumped its waste slag outside its factory gates. Villagers collected it and burned it in woks over open fires in their backyards and tried to sell the extracted lead content of the slag. Reportedly, people throughout Java practised this method of recycling wastes (E/CN.4/1997/10, paras. 40 and 63).

94. The Indonesian Government responded that the allegations relating to the pollution caused by the operations of IMLI on Java lacked clarity, making their credibility questionable, and considered it irrational that the source of the allegations should report alleged misdeeds committed by the companies concerned back in 1992. The Government also thought that the allegations were politically motivated (E/CN.4/1998/10/Add.1).

95. The Australian Government responded that it was not clear whether these shipments occurred before or after the Basel Convention entered into force in 1992. In addition, action was taken by the two Governments after the allegations were made, including the amendment by Australia of its hazardous wastes legislation to ensure that all such trade in hazardous wastes was subject to strict controls (E/CN.4/1998/10/Add.1).

96. The Government of the United Kingdom has replied that, given the lack of detail of the allegations, the United Kingdom has been unable to find any documentary evidence which might confirm or deny the truth of the allegations (E/CN.4/1998/10/Add.1).

Case 1997/14 - France/Brazil

97. In 1993, the immediate closure of the French transnational corporation Rhône Poulenc's plant in Cubatao, Brazil, was ordered by a judge in order to protect plant workers from further exposure to chemicals. Reportedly, huge quantities of hexachlorobenzene- and pentachlorophenol-contaminated soil were identified at the Rhône Poulenc facility that apparently had concealed the illegal deposits, which were 7,000 to 15,000 times higher than legal contamination levels. In 1992, one of the plant workers died and results from his autopsy revealed HCH in his lungs (E/CN.4/1997/10, para. 46). The French Government responded that the authorities were investigating the allegations (E/CN.4/1997/10/Add.1).

Case 1997/15 - Japan/Malaysia

98. In 1985, eight people, two of whom have since died, filed suit against Asian Rare Earth (ARE) and asked for compensation for the pain and suffering its operations caused the village of Bukit Merah, Malaysia. ARE was a Japanese joint venture (Mitsubishi Chemical Corporation owned 35 per cent) which commenced production in 1982. The plaintiffs charged that radon gas had escaped from the ARE facility and made many people sick. Increased incidence of leukaemia, infant mortality, congenital defects and increased levels of lead in children's blood were all acknowledged by the judge. According to the information received by the Special Rapporteur, ARE gained permission to resume operation in 1992, but chose not to do so due to widespread public protest (E/CN.4/1997/19, para. 52).

99. The Government of Japan provided the Special Rapporteur with information submitted by Mitsubishi Chemical Corporation (MCC) on the allegation relating to Asian Rare Earth (ARE). Regarding the allegation that "eight people, two of whom have since died, filed suit", according to the Government, no such deaths were referred to, nor did the plaintiffs blame the deaths on ARE's operations during the proceedings at the High Court. In 1993, the Supreme Court allowed ARE's appeal and lifted an injunction against it on the basis that ARE's operations were lawful, and not a private nuisance as the High Court had held earlier.

ARE's decision to cease its operations was not made not because of the reasons alleged, but because of its own business assessment regarding the future of Rare Earth Industry in Malaysia (E/CN.4/1998/10/Add.1).

100. The Malaysian Government responded that there was no conclusive evidence to show that the increase of leukaemia, infant mortality, congenital deformities and the increased level of lead in the affected children's blood were due solely to ARE's operations. Furthermore, the Atomic Energy Licensing Board of Malaysia - the competent authority in controlling the operations of ARE - was satisfied that ARE had complied with all the licensing conditions laid upon it and subsequent inspections and data collection confirmed the findings (E/CN.4/1998/10/Add.1).

Case 1997/16 - ?/Argentina

101. In 1993, seven people died as a consequence of toxic gas leaking from the drains in the proximity of a concealed deposit of toxic wastes. A first analysis of the sewage water revealed traces of cyanhidric acid which was either thrown directly into the drains or combined with other substances thus creating the lethal mixture. Reportedly, those responsible for the damages caused had not been identified (E/CN.4/1997/19, para. 3).

Case 1997/17 - United Kingdom/South Africa

102. Reportedly, the British transnational corporation Thor Chemicals imported a stockpiled more than 3,000 tons of toxic waste (E/CN.4/1998/10/Add.2, para. 18). Three Thor executives were charged with culpable homicide and 42 contraventions of safety laws after the death of a worker from suspected mercury poisoning. Following several reports of severe mercury-related poisoning of workers, Thor Chemicals announced that it would phase out all mercury-related operations at its Durban plant in South Africa by the end of 1996 (E/CN.4/1997/19, para. 64).

103. The Government of South Africa replied that the importation of spent mercury catalyst into South Africa by Thor Chemicals was known to and permitted by the South African Government and that there was no illicit dumping or trafficking. The imports were terminated in 1992. However, court proceedings against Thor Chemicals SA (Pty.) Ltd. took place between 1992 to 1995. All charges of homicide against three employees were dropped by the State Prosecutor, and Thor Chemicals was found guilty by the court of contravening the Machinery and Occupational Safety Act of 1983 (Act 6 of 1983) (E/CN.4/1998/10/Add.1).

104. According to the South African Government, the future treatment of the imported material was the subject of a Commission of Inquiry (the "Thor Chemical Commission") appointed by President Mandela on 24 March 1995. In the first phase of its report, the Thor Chemical Commission concluded that the only viable option was to treat the mercury waste by recycling it through incineration or roasting. According to the Thor Commission, only a small percentage of this waste had been imported, and it was almost impossible to identify the sources because of leakage (E/CN.4/1998/10/Add.2, para. 22). The Commission was still working on the second phase of its report and investigating the monitoring and control of mercury processing in order to recommend steps which would minimize risk, and protect workers and the

environment. The Department of Environmental Affairs and Tourism constituted a multi-stakeholder Steering Committee to attend to the implementation of the recommendations of the first phase report (E/CN.4/2000/50, para. 91).

105. The United Kingdom Government replied that it was informed by Thor Chemicals (UK) Ltd. that, between 1987 and May 1992, 10,137 kg net (24,970 kg gross) of Thor mercury compound residues were exported to Thor Chemicals SA (Pty.) Ltd. for processing. Thor Chemicals (UK) Ltd. stated that shipments ceased after May 1992. The United Kingdom Government had no evidence to suggest that Thor Chemicals (UK) Ltd. did not comply with relevant United Kingdom legislation on the shipment of dangerous goods. Compliance of the working practices of Thor Chemicals SA (Pty.) Ltd. with health and safety legislation was a matter for the relevant authorities in South Africa. The United Kingdom did not believe that the allegations were within the mandate of the Special Rapporteur (E/CN.4/1998/10/Add.1).

Case 1997/18 - Germany/Egypt

106. Reportedly, in 1992, Egyptian authorities refused to permit the unloading of a cargo of 950 tonnes of plastic wastes originating in Germany which was to be delivered to Egyptian cement kilns as fuel for their ovens. The waste was combined with 1.7 per cent lead, other heavy metals and polycyclic aromatic hydrocarbons. If burnt in cement kilns, the toxic fumes would have endangered the health of the local population (E/CN.4/1997/19, para. 49).

107. The Government of Germany replied that in early 1992, 950 tons of waste consisting of shredded batteries and transformers were exported illegally from Germany to Egypt. After having been alerted by the organization Greenpeace, Egyptian authorities denied the cargo ship carrying the waste entry to the port of Alexandria. The waste was brought back to Germany where it was disposed of in an environmentally sound manner. The health of the Egyptian population was not threatened (E/CN.4/1998/10/Add.1).

Case 1997/19 - ?/Thailand

108. In 1991, a massive explosion and fire occurred at the Klong Tooey port in Bangkok, in an area where imported and abandoned hazardous chemicals and wastes had been stored for years. After the fire, Thai government authorities allegedly relocated the toxic residues to a dumpsite in a military area in Kanchanaburi. Residents of Kanchanaburi, who live near the dumpsite, reported skin rashes after bathing with well water and have traced the source to leaking toxic chemicals from the dumpsite. A petition was lodged with the Government on 16 December 1992, alleging that such a method of disposal was environmentally unsound (E/CN.4/1997/19, para. 58).

109. According to the Government of Thailand, no evidence to indicate contamination by toxic substances was found. Nevertheless, the Government informed the Special Rapporteur that the Ministry of Science, Technology and the Environment was entrusted with finding a suitable method for disposing of the chemical residues. It decided that the chemical residues should be removed from the original site to a secure landfill in the same area. As a part of the follow-up activities, the Pollution Control Department maintained a close watch over environmental conditions in the surrounding areas on a continuous basis. The Government of Thailand

observed that all chemical residues left by the fire have been properly disposed of. The Port Authority of Thailand would coordinate with the Department of Industrial Works of the Ministry of Industry to ensure the proper disposal of the chemicals and wastes that could not be returned to any other country (E/CN.4/1998/10, para. 52).

Case 1997/20 - United States: depleted uranium

110. Reportedly, the use of hundreds of tons of depleted uranium (DU) bullets in the Persian Gulf during Operation Desert Storm (1991) coupled with unexplained illnesses experienced by veterans who had been exposed to numerous potentially toxic substances have focused public attention on a possible link between these illnesses and the health hazards associated with DU munitions. The military use of DU poses threats to both humans and the environment; also, the expense of DU clean-up seems to be immense. Yet, DU munitions are sold in the world arms market and the United States has apparently led in their development, use and commercialization. Approximately 50,000 veterans in the United States and 4,000 in allied countries who served in Operation Desert Storm subsequently suffered from a variety of ailments, usually referred to as the Gulf War Syndrome or Desert Storm Illness (E/CN.4/1997/19, para. 7).

Case 1997/21 - ?/Brazil

111. Reportedly, in 1987, some workers at Tonolli and FAE S.A., two of Brazil's largest lead battery waste importers, quit/were fired from their jobs after their health had failed. Four years later, the lead recycling companies were held responsible for lead poisoning. Emissions of lead and cadmium released by Tonolli may have caused highly elevated levels of lead in the blood of children living nearby. In 1988, FAE was fined for violations of occupational health standards, environmental regulations and problems with the smelter itself. An analogous case was that of Microlite, the largest of the battery smelters in Brazil and part of Saturnia Batteries Enterprise (E/CN.4/1997/10, para. 43).

Case 1997/22 - Turkey

112. Three power plants - Yatagan, Yenikoy and Gokova, located in Mugla region and operated by the Ministry of Energy and TEAS (Turkish Electricity Authority) - were allegedly responsible for polluting the whole region, including the Marmaris Peninsula, the Datca Peninsula, Gocek Bay, "Special Protected Area" Koycegiz, Ortaca and Dalaman, with toxic emissions and acid rain. Reportedly, the area between Yatagan and Yenikoy, which was covered with pine forests and fruit trees before 1982, became a Mond process open-air coal mine extending hundreds of thousands of hectares, full of piles of radioactive waste ashes which contaminated the underground water and soil. Yearly, 700 tons of uranium were discharged in the open piles of ashes. Cases of cancer, asthma/bronchitis, goitre and heart disease as well as miscarriages, loss of hair, and eye, skin and mental diseases among the inhabitants of the area apparently increased, but accounts of medical investigations were not kept. Reportedly, in 1993 lawsuits were brought before the Regional (Aydin) Administrative Court in order to stop the environmentally hazardous activities of the three power plants. The Aydin Administrative Court decided to stop them, but the Turkish Council of Ministers decided to allow the plants to continue to operate despite the decision of the court (E/CN.4/1997/19, para. 59).

113. The Government of Turkey replied that the 1996 By-law on the Protection of the Quality of the Air defined the limits for toxic emissions by industrial plants and air polluting parameters, and required that thermal power plants obtain a special "emission permit" to function. Sulphur dioxide and nitrogen oxide were not toxic emissions and were classified as air pollutants. Various analyses showed that the emission of these pollutants by the plants was within permissible limits. In line with the provisions of the By-law, flue gas desulphurization facilities were established in the Yataan, Yeniköy and Gökova (Kemerköy) power plants in order to limit toxic emissions to the level required by law. Necessary measures were taken to minimize the emission of waste ashes by the three power plants. The allegation that 700 tons/year of uranium were discharged from these plants lacked any scientific credibility. Radioactivity analyses conducted by the Turkish Atomic Energy Agency in 1990 showed that the amount of radioactive products was within natural limits that posed no danger to human health. The pile of waste ashes produced by the Yataan power plant was covered with agricultural soil in 1993 and the land was then afforested. There was no evidence to prove the accuracy of allegations that the incidence of certain diseases was on the rise among the inhabitants of the area as a result of high radioactivity levels (E/CN.4/1998/10/Add.1).

Case 1997/23 - Australia/Papua New Guinea

114. In 1963, Australia granted a mining exploration licence to CRA Exploration (later Copper Pty. Ltd.; after mining started in 1972, the company was registered in the Territory of Papua and New Guinea and renamed Bougainville Copper Ltd. BCL.) to prospect for copper at Panguna in Bougainville. Although some measures were adopted to grant compensation and prevent environmental damage, the situation deteriorated. Landowners started forming associations in defence of their rights; in 1987, a new Paguna Landowners Association emerged, later formalized as the Bougainville Revolutionary Army (BRA), and acts of sabotage, which eventually (1990) led to the closing down of the mine, started. The Police Riot Squad, as well as the Papua New Guinea Defence Force (PNGDF), both sent to deal with the situation, reportedly resorted to brutal and illegal ways to contain the strife. Analogous acts of violence were carried on by BRA units. In 1990, a naval blockade in respect of all goods and services except essential medical supplies was imposed by the Government of Papua New Guinea around Bougainville. The proclamation of a unilateral declaration of independence and the creation of the Bougainville Interim Government followed; the situation did not return to normal and, even though the naval blockade was lifted, the population in some areas continued to be deprived of basic requirements and many allegations of serious violations of human rights continued to be reported (E/CN.4/1997/19, para. 42).

115. The Government of Australia responded that this allegation did not relate to the exporting of wastes from Australia to Papua New Guinea, but to environmental impacts which allegedly occurred from the Bougainville copper mine. The Australian Government considered that it went well beyond the Special Rapporteur's mandate. The allegation related to events which were too dated to be considered by the Commission (E/CN.4/1998/10/Add.1).

Case 1997/24 - Canada/Papua New Guinea

116. Reportedly, the Porgera gold mine located in Papua New Guinea's western highlands and operated by Placer Nuigini, a local subsidiary of Canadian company Placer Dome Inc.,

dumped 40,000 tonnes of tailings per day into the Strickland-Maiapam River and had no tailings retention facilities. The mine dumped rock waste as well as heavy metal sulphides and hydroxides, including ferro-cyanide complexes and Jarrosite, into these rivers at levels up to 3,000 times the normal legal limits. Reportedly, local people, concerned about these levels of contamination, asked the Government to improve pollution monitoring and regulation below the mine. Apparently, the Government replied by extending the exemption the joint venture enjoyed in dumping tails (E/CN.4/1997/19, para. 44).

117. The Canadian Government responded that the case fell outside the scope of the Special Rapporteur's mandate. The fact that a corporation operating in Papua New Guinea may have ties with a Canadian corporation did not make Canada a State where traffic of toxic or dangerous products and wastes originated. The commercial ventures in question operated in the countries in which the alleged pollution was created. No traffic or movement of any substance from Canada to such countries occurred. Such enterprises were subject to regulation by the State in which they operated as a matter within the sovereign jurisdiction of that State (E/CN.4/1999/46, paras. 76-84).

Case 1997/25 - United States/Mexico and other developing countries

118. Reportedly, WMX Technologies - Chemical Waste Management's parent company - considered taking advantage of the North American Free Trade Association (NAFTA) by exporting for disposal hazardous waste from the United States to Mexico; the company was accused of dumping on communities of colour in the United States, on Indian lands, as well as in developing countries (E/CN.4/1997/19, para. 68).

119. The Government of the United States replied that it had a long record of cooperation with Mexico on environmental issues. Any legal trade in hazardous wastes between the United States and Mexico was governed under a bilateral hazardous waste agreement. Any allegations of illegal waste dumping were dealt with through bilateral cooperation mechanisms between American and Mexican environmental officials (E/CN.4/1998/10/Add.1).

Case 1997/26 - United Kingdom/Malaysia

120. According to information received, about 130,000 women, especially young women between the ages of 16 and 25, worked as pesticide sprayers on plantations in Malaysia. Reportedly, they worked under harsh conditions and many of them never saw a doctor. When they did see one, their symptoms were often misdiagnosed as flu, heat rash or gastroenteritis, whereas acute poisoning among female plantation workers in Malaysia was allegedly quite common. Paraquat reportedly accounted for 80 per cent of all herbicide sales in Malaysia. The United Kingdom-based transnational corporation Imperial Chemical Industries (ICI) had a formulation plant in Malaysia and manufactured and sold paraquat under the trade name Gramoxone (E/CN.4/1997/19, para. 62).

121. The Malaysian Government replied that the sale of all pesticides, including paraquat, was regulated under the Pesticides Act 1974, according to which all pesticides had to be registered with the Pesticides Board before they are allowed to be imported or manufactured for sale in the country. In the case of paraquat, all approved products had to contain a dye and a stenching

agent as a means of minimizing accidental poisoning. In its efforts to reduce the risks faced by paraquat users, the Board introduced regulations that required, inter alia, employers to provide their workers with appropriate protective clothing, first aid kits and training in the methods of handling paraquat. The claim that paraquat constituted 80 per cent of herbicide sales in Malaysia was a gross overestimation, the correct estimate was only 20 per cent (E/CN.4/1998/10/Add.1).

122. The United Kingdom replied that these allegations appeared to be outside the mandate of the Special Rapporteur. Gramoxone was approved for use as a herbicide by the Malaysian Government and Zeneca (which replaced ICI Agrochemicals) undertook extensive training for those involved in its distribution, storage and use. The specific plant referred to in the allegation was sold to the Chemical Company of Malaysia in 1994. The United Kingdom Government was unable to comment on working conditions in Malaysia which were clearly a matter for the Malaysian Government (E/CN.4/1998/10/Add.1).

Case 1997/27 - ?/India

123. Some of the world's most toxic pesticides were reported to be amongst the most widely used insecticides in India, of which 55 per cent were applied to cotton. As a result, babies from the cotton-growing region of Mukteshwar were consuming 24 times the level of DDT designated safe by WHO. Also, all 130 samples of mother's milk taken from the Punjab were contaminated with residues of DDT and HCH; the same for infant formula. The health impacts of pesticide use in India also included accidental and occupational poisonings and deaths (E/CN.4/1997/19, para. 51).

Case 1997/28 - United Kingdom

124. According to a communication received, ReChem's toxic waste incinerator in Pontypool, south Wales, had been for 20 years the destination of thousands of tonnes of highly toxic wastes, especially polychlorinated biphenyls (PCBs), from all over the world. The plant was close to residential areas; local people complained about dark smoke and noxious smells from the plant whose toxic emissions hung in the stagnant air. Scientific investigations have reported raised levels of PCBs and dioxins around the plant. Reportedly, the Government refused calls for a public inquiry into the plant and ReChem stifled public debate (E/CN.4/1997/19, para. 60).

125. The Government of the United Kingdom replied that the ReChem operation at Pontypool did not appear to fall within the mandate of the Special Rapporteur, since it was not located in an African or other developing country (E/CN.4/1998/10/Add.1).

Case 1997/29 - United States: racial factors

126. A prevalence of environmental inequities based on socio-economic and racial factors was reported: of the two factors, race appeared to have both an independent and a more important relationship with the distribution of commercial hazardous waste facilities than income. In fact, race was the single best predictor of where commercial hazardous waste facilities were located, even when other socio-economic characteristics of communities, such as average household income and average value of homes, were taken into account (E/CN.4/1997/19, para. 65).

127. The United States replied that the allegation regarding the placement of hazardous wastes within the United States based on socio-economic and racial factors, was an issue of great importance domestically, but was clearly beyond the scope of the Special Rapporteur's mandate, in particular given that the United States was not a developing country (E/CN.4/1998/10/Add.1).

Case 1997/30 - United States/indigenous communities

128. Reportedly, nuclear contaminants represented a serious problem throughout many indigenous communities in North America and the Pacific - the storage and dumping of nuclear waste was just one method of contamination. Reportedly, in 1995 the Mescalero Apache people voted to refuse the "privatized" nuclear waste of Northern States Power, but in a second vote the project passed. The scheduled opening date was 2002; opponents were trying to stop it. In addition, the major problems of pollution imported onto Indian lands appeared to be associated with the toxic dumping of PCBs throughout the western hemisphere as well as pollution as a result of mineral and natural resource exploitation (E/CN.4/1997/19, para. 66).

Case 1997/31 - United States: export of hazardous pesticides

129. Reportedly, the United States-based Uniroyal Corp. continued to sell a hazardous pesticide - Propargite - to farmers overseas even though the product was withdrawn from domestic markets for health and safety reasons. Apparently, the company's decision to withdraw its product from foreign markets would depend on the environmental laws and policies of the importing countries (E/CN.4/1997/19, para. 69).

130. The Government of the United States stated that the alleged export of pesticide was beyond the mandate of the Special Rapporteur, because it dealt with goods in commerce, not with hazardous wastes. The issue of the export of banned or restricted chemicals and pesticides was an important issue to the United States and was addressed in the negotiations on a convention for the prior informed consent on the trade in certain toxic chemicals and pesticides - it was not within the Basel Convention (E/CN.4/1998/10/Add.1).

Case 1997/32 - United States/Argentina

131. According to information received, the so-called "waste paper" bales exported for recycling from the United States and some European countries to Argentina were basically toxic waste which posed health and safety risks for the workers who handled the bales, both through skin contact and through inhalation. There was a more general contamination problem since contact with the material could give rise to a whole range of serious infections. Furthermore, the wastes were not disinfected before being put into pulpers or while inside the pulpers, which caused a further contamination problem since the recycled paper was subsequently used in, among other things, toilet rolls and paper serviettes, and even in food wrappings (E/CN.4/1997/19, para. 71).

132. The Government of the United States replied that it did not restrict the proper export of waste paper for recycling; in fact, the United States supported environmentally sound paper recycling programmes that reduced the demand for new raw materials from forests (E/CN.4/1998/10/Add.1).

Case 1997/33 - ?/Colombia

133. Reportedly, in a small area in the south of Santander, Colombia, the people and the environment were poisoned by glysofato and other radioactive chemicals. People slowly became incoherent with intense pain, accompanied by auditory, olfactory, oral and vaginal haemorrhaging. Some suffered from dizziness, vomiting, fainting, partial paralysis, headaches and facial disfigurements. Over 400 individuals were bedridden, and livestock and crops died. People living in nearby towns who drank from the same two rivers (River Fonse and River Uripas) were also at risk. Some also starved due to the impossibility of growing food on the land destroyed by chemicals (E/CN.4/1997/19, para. 45).

ANNEX

CASE 2000/58 - UNITED STATES/PARAGUAY: LIST OF AFFECTED PERSONS

A. List of persons for whom medical analysis was completed in February 1999

Pedro Ramón Alonso
María Magdalena Bogarin Duarte
Mirta Mariela Merele
Petronilo Melgarejo
Guzmán Benítez
Juan Roberto Becker
Jorge Luis Molinas
José Eduardo Molinas
Pedro Leguizmón
Luciano Vera Rivas
Juan Pablo Fretes Baez
Blas Ramón Cabrera
Dario Andrés Alonso
Carmen Blasida Maldonado
Venancio Esteban Maldonado
Celina Servian de Maldonado
Juan Alberto González
Carlos Edgar Vera Rivas
Nancy Noemi Mereles Ramos
Antonina Morinigo Rodríguez
Liz Carolina Alonso Sóliz
Lucrecia Evangelista Sóliz
Rosa Mabel Mereles
Ignacio Dario Vega
María Clarisa Vega
Cirilo Bogarín Duarte
Juana Pereira de Vega
María Elena Agüero de Vallejos
Guillermina Vallejos
Lorenza Quiroga
Cecilia Bareiro vda. Rojas
José María Vega
Fermina Rivas
Salustiana Rojas
Andrés Alonso González
Porfirio Ramos
Catalina Caballero Montiel
Catalino Núñez Rojas
Antonia Ramos
Basilicia Caballero de Moreno
Norma Beatriz Montiel

Cándida Montiel
Bernabé Ramos
Hugo Cristobal González
Francisco Cristaldo
Mirián Encarnación de Alonso
Mirta Liz Alonso
Pedro Alonso Leguizamón
Carmen Molinas Díaz
Lucía González
Gregoria Montiel de Cristaldo
Fernanda Trinidad
María Pabla Rodríguez
María Clotilde de Fleitas
Epifanio Pereira
Sérgio Bogarín Duarte
Elvio Caballero González
Tomasa Antonía Alonso
Evangelista Duarte de Bogarín
Rosa María Alonso
Mónica Raquel Ramos
Carlos Ramos Martínez
Francisco Ramos Martínez
María Beatriz Rodríguez
Juana Gabriela Bogarín
Fredy Benicio Molinas
Sérgio Matias Soliz

B. List of persons who could not undergo medical analysis for lack of resources

Cristaldo Francisco Solano
Hilaria Alonso de Olazar
Ambrosio Olazar Guerrero
Darmila Leguizamón de Otazu
Isidoro Rodríguez Aranda
Mario Morinigo
Candia Bernarda Leticia Morinigo
Benita Aranda
Porfiria Báez Rolón
Santiago Segovia
Pedro Damián Paniagua Ramos
María Dolores Montiel de Sanabria
Narciso Benítez Gamarra
María Centurión de Benítez
Ramón Morinigo Rivas
Daria Ruiz de Penayo
Juana Bautista Morinigo Rivas
Minguel Morinigo Aranda

Faustino Morinigo Báez
Diosnel Rodríguez Rojas
Arminda Morinigo Rivas
Tomás Ruiz Morinigo
Aníbal Rodríguez Rojas
Eulalia Rodríguez Rojas
Edgar Ireneo Paniagua Rivas
Francisca González
Patricio Báez Rodríguez
Rosalinda Aranda Rojas
Alberto Segovia Centurión
Efigenio Segovia
Victoriana Fleitas Guerrero
Calixto Penayo
Juan Vicente Candia Ramírez
Domingo Ramírez Caballero
Antonia Pintos de Rodríguez
José Domingo Vallejos Benítez
Pablo González Núñez
Blanca González de Segovia
Andrés Caballero Montiel
Gregoria Segovia de Sandoval
Florentina Mesa Aranda
Mario Rodríguez Aranda
Mirna Báez Rodríguez
Fidelina Báez Rodríguez
Sonia Elizabeth Quiroga
Casimira Rodríguez de Báez
Florentina Benítez de Saucedo
Candia Abdón Morinigo
Marcelino Morinigo Rodríguez
Eleno Ramírez
Pedro Juan Pintos
Apolonio Mesa Aranda
Basilia Vera Pintos
Cecilio Báez Leguizamón
Clementina Avinagal de Ruiz Díaz
Félix Ruiz Díaz
Marcos Martínez Giménez
Lilián Estela González
Virginia Centurión de Ramírez
Ana María Segovia Leguizamón
Ceferino Vega
Juana de la Cruz Pereira de Vega
Antonia Ramos Aranda
Casimira Ramírez
Lucio Mereles Díaz

Cecilia Ramírez Ramírez
Ana Selva Leguizamón de Segovia
Norma Noemi Segovia Leguizamón
Carmen Molinas Díaz
Sebastián Ramos Aranda
Claudelino Segovia Centurión
Marcelino Molinas Soilán
María Basilia Díaz de Molinas
Dario Ruben Ramos Arrua
Leonor Rodríguez Pintos
Andresa Vera Ruiz
Cándida Montiel Fleitas
Beatriz Montiel
Matias Rodríguez Peña
Teodora Rodríguez
Celso Mariano Giménez Rodríguez
María Ramona Vera Ruiz
Minguela González Génez
Evangelista Duarte
Anselma Arrua de Ramos
Amalia Esquivél de Ramos
Catalino Núñez Rojas
Elvio Caballero González
Ascención Montiel Chaparro
Felipina Rivas Candia
María Clotilde Fleitas González
Pablo Morinigo Candia
Blás Ramón Ramos Arrua
Tranquilino Báez Díaz
Juan Basilio Rojas Bareiro
Ananias González
Elva Minguela Segovia de González
Santiago Luís Segovia Centurión
Victor Manuel López Irala
Vidalina Segovia de López
Gustavo Daniel Segovia Leguizamón
Amalia Quiroga de Maldonado
Gabriel Maldonado
Juan Simón Rodríguez Peña
Benita Trinidad de Rodríguez
María Teresa González de Rodríguez
Epifanio Rodríguez Aranda
Pabla Sanabria Montiel
Sotera Rivas de Morinigo
Eliodoro Morinigo Candia
Daniel Gustavo Ramírez Centurión
Valentina Quiroga

Mauricio Ramírez Segovia
Minguela Aranda Ramos
Cecilio Ramírez Centurión
Norma Sosa Bogarín
Francisco Olazar Olmedo
Félix Díaz Pintos
Juliana Aranda de Díaz
Tomasa Alonso de Díaz
Gloria Elizabeth Olazar Olmedo
Felipa Leguizamón de Alonso
Basilio Alonso Duarte
Andrés Díaz Bareiro
Celestina Rodríguez de Morinigo
Anuncio Pintos
Julia Ramírez Centurión
Adolfo Ramírez Centurión

Note: The database of 200 children could not be provided. It is believed that over 600 families have been affected by the contamination.